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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/629,057	07/31/2000	David William Geen	95-444	5171
23164	7590	06/30/2004	EXAMINER	
LEON R TURKEVICH			NGUYEN, VAN KIM T	
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WASHINGTON, DC 200363307			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s) GEEN ET AL.
	09/629,057 Examiner Van Kim T. Nguyen	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) \_\_\_\_ is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

This Office Action is responsive to communications filed on May 24, 2004.

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 16-17, 23, 29, and 44 are rejected under 35 U.S.C. 102(e) as being anticipated by Fenton (US 6,445,697).

As shown in Figs. 1-35, Fenton discloses establishing a call having a first media channel with an IP telephony gateway (20), the first media channel configured for transmitting a first media stream according to a corresponding first compression (transmits between zero and four channels according to codec 1; col. 7: lines 1-5); initiating closing of the first media channel based on a request for a resource utilizing a second compression (if a fifth channel is requested, degrades one channel between zero and four so it can transmit according to codec 2); and starting for the call a second media channel, configured for transmitting a second media stream according to the second compression, upon closing the first media channel (starts transmitting on the channel according to codec 2; col. 7: lines 5-11).

### ***Allowable Subject Matter***

Claims 2-15, 17-22, 24-28, 30-43, and 45-58 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Response to Amendment***

Applicant's arguments, see pages 1-3, filed May 24, 2004, with respect to the rejection of claims 1, 16-17, 23, 29, and 44 under 35 U.S. C. § 102 (b) as being anticipated by U.S. Patent No. 5,892,535 (Allen) have been fully considered and are persuasive. The rejection of these claims has been withdrawn.

Applicant's arguments, see pages 3-6, filed May 24, 2004, with respect to the rejection of claims 1, 2, 4, 6, 11, 16-19, 23-25, 29-30, 32, 34, 44-45, 47, 49, and 54 under 35 U.S. C. § 102 (e) as being anticipated by U.S. Patent 6,584,110 (Mizuta) and claims 3, 15, 31, 43, 46, and 58 under 35 U.S. C. § 103(a) as being unpatentable over Mizuta as applied to claims 1, 2, 29, 30, 44, and 45 above, have been fully considered and are persuasive. The rejection of these claims has been withdrawn.

Similarly, Applicant's arguments filed May 24, 2004 regarding the rejection of claims 1, 16-17, 23, 29, and 44 under 35 U.S. C. § 102 (e) as being anticipated by U.S. Patent No. 6,445,697 (Fenton) have been fully considered, but they are not persuasive. Examiner, therefore, maintain the rejection of claims 1, 16-17, 23, 29, and 44 under 35 U.S. C. § 102 (e) as being anticipated by U.S. Patent No. 6,445,697 (Fenton).

Response is as followed.

***Response to Arguments***

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., request to

initiate a change to another resource having a different compression during a call, not result in an audible click, not initiated by the processor) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Specifically, as the claims only recite "*initiating closing of the first media channel based on a request for a resource utilizing a second compression;*" without specifying the resource utilizing a second compression is different from the resource utilizing a first compression, and since Fenton does disclose a resource with a second compression (different codecs, col. 5: lines 15 – col. 6: line 57), this limitation is met by Fenton.

Applicant also argues that "*Fenton does not disclose closing a first media channel and starting for the call a second media channel. Rather, codecs are switched on the same media channels, which may result in an audible click*" and "*The change of compression in Fenton is initiated by the processor to allow the use of fifth channel by another subscriber.*" Applicant seems to imply these are exclusive limitations of the claims

However, as Examiner interprets a first media channel as a channel with a first codec and a second media channel as a channel with a second codec, and since the "not result in an audible click" and "not initiated by the processor" are features not being recited in the claims, and since Fenton discloses changing a first media channel to a second media channel (by closing a channel with a first codec and starting a channel with a second codec), in response to request by another subscriber (cols. 2-7); thus, these limitations are met by Fenton.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Van Kim T. Nguyen whose telephone number is 703-305-7692. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas W. Olms can be reached on 703-305-4703. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

vkn



DOUGLAS OLMS  
SUPERVISORY PATENT EXAMINER  
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